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Attorney for Plaintiff

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SUPERIOR COURT BERGEN COUNTY  
FILED

JUN 25 1996

CONRAD J. RONCATI  
DEPUTY CLERK

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION - BERGEN COUNTY  
DOCKET NO. C-225-96

DEBORAH T. PORITZ, ATTORNEY GENERAL	)	
and BOARD OF PSYCHOLOGICAL EXAMINERS	)	
Plaintiffs,	)	<u>Civil Action</u>
	)	
v.	)	VERIFIED COMPLAINT
	)	
CARL H. LICHTMAN, Ed.D.	)	
Defendant.	)	

DEBORAH T. PORITZ, ATTORNEY GENERAL OF NEW JERSEY, by Joan D. Gelber, Deputy Attorney General, with offices located at the Division of Law, 124 Halsey Street, Newark, New Jersey, by way of Verified Complaint says:

#### JURISDICTIONAL STATEMENT

1. Plaintiff Attorney General of New Jersey is charged with enforcing the laws of the State of New Jersey pursuant to N.J.S.A. 52:17A-4(h), and is empowered to initiate proceedings pursuant to N.J.S.A. 45:1-23 against persons engaged in the practice of psychology but not licensed by the New Jersey State Board of Psychological Examiners or otherwise exempted from licensure requirements.

2. The New Jersey State Board of Psychological Examiners is charged with the duty and responsibility of regulating the practice of psychology in this State and is empowered to initiate proceedings pursuant to N.J.S.A. 45:14B-5 and the Uniform Enforcement Act, N.J.S.A. 45:1-14 et seq., against persons engaged in the practice of psychology in this State but not licensed by the Board or otherwise exempted from licensure requirements.

3. N.J.S.A. 45:14B-2 defines the practice of psychology, in pertinent part, as:

the rendering of professional psychological services to individuals, singly or in groups, whether in the general public or in organizations, either public or private, for a fee, monetary or otherwise. "Professional psychological services" means the application of psychological principles and procedures in the assessment, counseling or psychotherapy of individuals for the purposes of promoting the optimal development of their potential or ameliorating their personality disturbances and maladjustments as manifested in personal and interpersonal situations.

N.J.S.A. 45:14B-5 forbids a person not licensed under the Act to represent himself to be a licensed practicing psychologist, or to use a title or description, including the term "psychology," or to use its derivatives such as "psychologist" or "psychological" or modifiers such as "practicing" or "certified," in a manner which would imply that he is licensed under the Act, or to offer to practice or practice psychology as defined in the Act (except as otherwise permitted by N.J.S.A. 45:14B-6 and -8 (not applicable here),

Administrative rule N.J.A.C. 13:42-1.1 implements the abovesaid law, providing clarification and interpretation. Rule N.J.A.C. 13:42-1.5 explicitly defines a person whose license has been suspended by

disciplinary order as **ineligible** for exemption under the law, except by Order of the Board.

4. N.J.S.A. 45:1-23 authorizes the Superior Court to conduct a summary proceeding and to issue an injunction prohibiting the unlicensed practice of psychology. The Court is authorized to assess a civil penalty, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of the unlawful act or practice, and to enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity.

N.J.S.A. 45:1-25 recognizes each transaction of unlawful conduct as constituting a separate offense, for which the defendant may be assessed a civil penalty of not more than \$2,500 for each first offense and not more than \$5,000 for the second and each subsequent offense. A second or subsequent offense may be found when an administrative or court order has been entered in a prior, separate and independent proceeding. The Court is further authorized to order the payment of costs for the use of the State.

5. N.J.S.A. 56:8-1 et seq. prohibits the act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, misrepresentation, or the knowing concealment, suppression or omission of any material fact with intent that others rely upon such conduct in connection with the offering or performance of such act. Offering and performance of "services" is included within the protective provisions of the Act; N.J.S.A. 56:8-1. N.J.S.A. 56:8-8

authorizes the Superior Court to issue an injunction prohibiting continuation of deceptive acts and practices or doing any acts in furtherance of such practices. N.J.S.A. 56:8-15 authorizes an order requiring that any moneys or property which have been acquired by means of an unlawful practice be restored to any person in interest. N.J.S.A. 56:8-11 authorizes the Attorney General to recover costs of the proceeding for the use of the State. N.J.S.A. 56:8-3.1 and -13 authorize assessment of a penalty against the person found to have committed a violation, of up to \$7,500 for each separate transation in a first offense.

#### COUNT I

1. Carl H. Lichtman, Ed.D. was issued a license from the State Board of Psychological Examiners to practice psychology in this State in May 1979. He held license #1371 and maintained professional offices at 65 North Maple Avenue, Ridgewood, New Jersey and also provided professional services at a home office at 110 Madison Place, Ridgewood, New Jersey.

2. On October 5, 1995 the Attorney General filed a Verified Complaint before the State Board of Psychological Examiners alleging massive insurance fraud by defendant Lichtman, among other charges. On the same date, an Order to Show Cause was issued by the Board and was served on defendant. On October 16, 1995, following a hearing at which defendant Dr. Lichtman was represented by counsel, defendant consented to the entry of a Board Order emergently suspending his license to

practice psychology in this State pending final adjudication of all charges.

3. The Consent Order of Temporary Suspension of License suspended defendant's license immediately and required, among other things, that defendant promptly deliver his license and current biennial registration; that he promptly initiate arrangements with all current patients for referral to other sources for care; and that he submit to the Board and the Attorney General a list of all current patients (identified either by initials or by case number to preserve confidentiality) together with confirmation of transfer.

4. By letter of October 18, 1995 defendant surrendered his license and biennial registration. By letter dated October 25, 1995 defendant submitted to the Attorney General a list by which he purported to comply with that portion of the Board Order requiring him to identify (in a confidential manner) all previously current patients and to confirm their transfer to another treatment provider.

5. Notwithstanding the Board Order of Suspension and defendant's letter of October 25, 1995, defendant misidentified one of the patients ("R.K." misidentified as "C.K."); further misrepresented the extent of his then current patient caseload to the Board; and also continued to engage in professional practice, as follows:

a) On September 19, 1995 defendant had undertaken to provide professional psychological services to patients including but not

limited to B.Q. and to J.Q.\* Defendant failed to prepare a proper patient record for said patients documenting each professional encounter, in violation of N.J.S.A. 45:1-21(g) and N.J.A.C. 13:42-8.1.

b) Defendant was still providing said professional services to patients as of October 16, 1995. However, defendant failed to list on his October 25, 1995 roster of current patients submitted to the Board many of the patients he was then seeing, including but not limited to B.Q., J.Q., L.H., W.D., O.D., J.R. and B.R. Further, of the inaccurate and incomplete list submitted by defendant, he failed to transfer all such patients, including but not limited to L.N. and "R.K."

c) After initiation of the disciplinary proceedings, defendant first notified some patients that he had decided to "close" his practice, and thereafter contacted them advising that he would see patients for therapy sessions at defendant's home at 110 Madison Place, Ridgewood, New Jersey instead of at his office.

d) After issuance of the Board's Order on October 16, 1995, and notwithstanding the provisions of said Order, defendant failed to transfer patients including but not limited to B.Q., J.Q., C.K., L.N., O.D., W.D., and L.H. Defendant failed to disclose the suspension of his license to his patients.

e) Notwithstanding the Board's Order of Suspension on October 16, 1995 and defendant's surrender of license documents on October 18,

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\*Initials are used herein to protect patient confidentiality. Attached exhibits are redacted for the same purpose. Unredacted exhibits have been provided to defendant and will be provided to the court at trial.

1995, defendant continued to offer and to provide psychological services to numerous patients including those listed above and to new patients J.R. and B.R.

f) Defendant received payment by check or cash for all services rendered subsequent to the date of suspension of his license and failed to maintain billing/payment records therefor.

6. Defendant's conduct in failing to truthfully disclose his entire caseload to the Board and failing to provide for transfer of all his patients, in the circumstances of this case, constitutes affirmative misrepresentation, deception and fraud upon the Board and upon the Attorney General acting on behalf of the State, in violation of N.J.S.A. 45:1-21(b), (h) and (e), and of N.J.S.A. 45:14B-1 et seq.

7. Defendant's conduct in failing to disclose the suspension of his license to his then current patients, and his continuing to offer professional services including to new patients, and continuing to bill therefor, constitutes the knowing concealment, suppression or omission of material fact with intent that others rely upon such concealment, suppression or omission in connection with the rendering of professional services, in violation of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. Said conduct also constitutes deception and fraud upon the patients, and failure of the ongoing requirement of good moral character under the Practicing Psychology Licensing Act, N.J.S.A. 45:14B-1 et seq. and under the Uniform Enforcement Act, N.J.S.A. 45:1-21(b), (h), and (e).

8. Defendant's conduct in failing to cease the offering and/or provision of psychological services subsequent to October 16, 1995 and his conduct in offering and providing psychological services to new patients constitutes engaging in the unlicensed practice of psychology in the State of New Jersey and misrepresentation as to his status, professional misconduct, failure of the ongoing requirement of good moral character, and violation of N.J.S.A. 56:8-1 et seq. Each and every instance of such conduct and of the billing therefor constitutes a separate transaction and a separate offense, in violation of N.J.S.A. 45:14B-1 et seq., of N.J.S.A. 45:1-25, and of N.J.S.A. 56:8-1 et seq.

9. Defendant's conduct in continuing to offer professional services, and continuing to bill therefor, after the suspension of his license, constitutes the knowing concealment, suppression or omission of material fact with intent that others rely upon such concealment, suppression or omission in connection with the rendering of professional services, in violation of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.

WHEREFORE, Plaintiffs demand the entry of an Order against defendant Carl H. Lichtman including the following:

1. Preliminary restraints and, following a summary hearing pursuant to R. 4:67-1 et seq., permanent injunction pursuant to N.J.S.A. 45:1-23 enjoining Carl H. Lichtman from engaging in the practice of psychology in the State of New Jersey, including but not limited to an Order directing him to cease and desist each kind of conduct set forth in the Complaint at any New Jersey location.



2. Imposition of civil penalties pursuant to N.J.S.A. 45:1-25 for each separate unlawful act as set forth in Count 1 above, including penalties as a second offender;

3. Preliminary restraints and permanent injunction pursuant to N.J.S.A. 56:8-8 enjoining Carl H. Lichtman from continuation of any deceptive acts and practices or doing any acts in furtherance of such practices in violation of the Consumer Fraud Act.

4. Imposition of civil penalties pursuant to N.J.S.A. 56:8-13 for each separate unlawful act as set forth in Count 1 above;

5. Imposition of costs, including investigative costs and fees for such expert and fact witness expenses as may be incurred, and costs of trial including transcripts, pursuant to N.J.S.A. 45:1-25 and N.J.S.A. 546:8-11.

6. Reimbursement to B.Q., J.Q., L.H., L.N., W.D., O.D., J.R., B.R., C.K. and to all other persons to whom defendant provided psychological services on and after October 17, 1995, of all monies received for acts found to be unlawful in the circumstances alleged herein, pursuant to N.J.S.A. 45:1-23 and N.J.S.A. 56:8-15.

7. Such other and further relief as the Court shall deem just and appropriate in the circumstances.

DEBORAH T. PORITZ  
ATTORNEY GENERAL OF NEW JERSEY

By:

  
John D. Gelber

Deputy Attorney General

Date: June 25, 1996